

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TRINIDAD and ANTONIO VIGIL,
Individually and as Husband and Wife,

Plaintiffs,

v.

Civ. No. 00-1435 RLP/KBM-ACE

WHIRLPOOL CORPORATION,
a Delaware corporation,

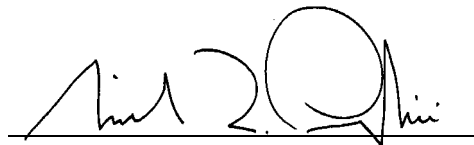
Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the court on Plaintiffs' Motion for Judgment as a Matter of Law or for New Trial with Incorporated Points and Authority. The court has reviewed the parties' submissions. A review of Mr. Arm's proposed testimony indicates that his theory was speculative, untested, and unrepeatable. The court therefore denies Plaintiffs' Motion for substantially the same reasons as set forth in the court's earlier Memorandum Opinion and Order disallowing the testimony of expert Roger Bybee [Doc. 109]. See *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579, 594 (1993); *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 152 (1999).

IT IS THEREFORE ORDERED that Plaintiffs' Motion for Judgment as a Matter of Law or for New Trial with Incorporated Points and Authority [Doc. 358] is denied.

IT IS SO ORDERED.



Richard L. Puglisi
United States Magistrate Judge
(sitting by designation)